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| PRE-APPEAL BRIEF REQUEST FOR REVIEW | | Docket Number (Optional) <i>930009-2011</i> | |
|---|--|---|------------------------------------|
| <p>I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]</p> <p>on <u><i>August 15, 2006</i></u></p> <p>Signature <u><i>[Signature]</i></u></p> <p>Typed or printed name <u><i>Ronald R. Santucci</i></u></p> | | Application Number <i>10/631,937</i> | Filed <i>July 31, 2003</i> |
| | | First Named Inventor <i>MARK J. LEVINE et al.</i> | |
| | | Art Unit <i>1772</i> | Examiner <i>Donald J. Loney</i> |
| <p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> | | | |
| <p>I am the</p> <p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/95)</p> <p><input checked="" type="checkbox"/> attorney or agent of record. Registration number <u><i>28,988</i></u></p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p> | | <p><u><i>[Signature]</i></u> Signature</p> <p><u><i>Ronald R. Santucci</i></u> Typed or printed name</p> <p><u><i>(212) 588-0800</i></u> Telephone number</p> <p><u><i>August 15, 2006</i></u> Date</p> | |
| <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.</p> | | | |
| <p><input type="checkbox"/> Total of _____ forms are submitted.</p> | | | |

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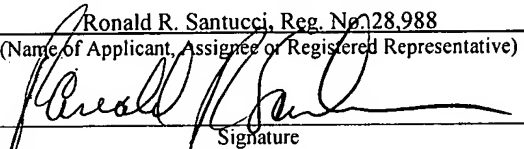
PATENT
930009-2011

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : Mark J. Levine and John VanHandel
Serial No. : 10/631,937
For : FABRICS WITH V-GUIDES
Filed : July 31, 2003
Examiner : Donald J. Loney
Art Unit : 1772
Confirmation No. : 9678

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on August 15, 2006.

Ronald R. Santucci, Reg. No. 28,988
(Name of Applicant, Assignee or Registered Representative)


Signature

August 15, 2006
Date of Signature

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

A Pre-Appeal Brief Conference for review of the Final Rejection dated June 15, 2006, in the above-captioned application in accordance with the July 12, 2005 Notice in the USPTO Official Gazette, is respectfully requested. No amendments are filed with this request. This request is being filed with a Notice of Appeal. The Commissioner is authorized to charge any additional fee that may be required by this paper to Deposit Account No. 50-0320.

I. REASON FOR REQUEST

This request for a Pre-Appeal Brief Conference is requested to review the rejection of claims 1-13 and 16-21 under 35 U.S.C. § 102(b) as anticipated by U.S. Patents No. 5,840,378 to Nagura. Moreover, the request is made to review the rejection of claims 1-13 and 16-17 under 35 U.S.C. § 102(b) as anticipated by either U.S. Patents Nos. 3,523,867 to MacBean or 5,422,166 to Fleischer. Further, the request is made to review the rejection of claims 14, 15, and 18-21 as unpatentable over either U.S. Patent Nos. 3,523,867 to MacBean or 5,422,166 to Fleischer in view of U.S. Patent No. 5,558,926 to Tate. Finally, this request is made to review the rejection of claims 1-21 as unpatentable over U.S. Patent No. 4,008,801 to Reiley.

II. ARGUMENTS

A. ANTICIPATION

The test for anticipation under §102 is not only must each and every element be found in the reference, those elements must be arranged as recited in the claim. *See, e.g., In re Bond*, 910 F.2d 831 (Fed. Cir. 1990).

1. Independent claim 1 patentably distinguishes over Nagura for at least the following reasons:

The Examiner has alleged that Nagura teaches “a guide material 7, running in the machine direction, at the ends of the belt that fills in at least 85% of the fabric structure.” (*Office Action* dated 6/15/06 at ¶ 2). The Examiner’s description of element 7 of the Nagura reference is directly contrary to its explicit description in the specification of the reference that states “[a]ntiflexing parts 7 are disposed on the front side at opposite ends of a woven fabric.” (Nagura col. 8, lines 51-52). Thus according to the patentees own description in Nagura, element 7 is not “guide material” as alleged by the Examiner. Indeed, the Examiner has previously admitted this distinction in earlier office actions by stating that “Nagura et al teaches a belt containing a fabric 2-6 containing a V-guide 8 at the ends of the belt...Element 7 can be considered the coating of claim 18.” (*Office Action* dated 6/28/05 at ¶ 4). This is the exact opposite of how the Examiner now alleges these features of Nagura to be oriented. Accordingly, based on the Examiner’s own reported understanding of Nagura and as explicitly stated in the Nagura reference element 7 is not a guide as that term is recited in claim 1 and defined in the specification of the instant application.

Moreover, the Examiner has failed to account for the express language of claim 1. Claim 1 in pertinent part recites “one or more guides made of a guide material attached to machine direction edges **of a wear surface of the fabric.**” Nagura, as previously asserted by the Examiner does indeed appear to have guides formed on the **wear surface** of the fabric Nagura refers to them as **guide ridges 8.** (Nagura, col. 8, line 52-55). Nagura’s teachings regarding these guide ridges 8 could hardly be more plain “guide ridges 8 are disposed on the side, namely on the running surface side of the woven fabric opposite the side seating the antiflexing parts 7.” *Id.* It is submitted that those of skill in the art of industrial and papermaker’s fabrics understand that the “running surface” and the “wear surface” refer to the same side of the fabric. Thus, even if the Examiner’s interpretation of Nagura is correct, a point which neither applicants nor their attorneys suggest is true, then the Examiner has failed to give patentable weight to a structural element of the claim, namely the location of the guide on the wear side of the fabric. The Examiner’s alleged guide 7 is on the wrong side of the fabric. This is not surprising as Nagura already provides for guides 8 on the wear side of the fabric.

But as applicant’s attorneys have previously pointed out to the Examiner, Nagura is clear in stating that “guide ridge” cannot itself encapsulate more than 15% of the empty space of the fabric. In contrast, claim 1 describes a guide that encapsulates at least 50% of the fabric.

Therefore, for at least these reasons discussed above, claim 1 of the instant application patentably distinguishes over the relied upon portions of Nagura and is allowable. Claims 2-13 and 16-21 which depend from claim 1 are allowable therewith

2. Independent claim 1 patentably distinguishes over MacBean or Fleisher for at least the following reasons:

MacBean and Fleisher teach crack and damage resistant strips and wear resistant strips respectively. It is respectfully submitted that these are not “guides” as that term is defined in the instant application. Guides according to the instant application extend from the surface of the fabric in order to guide the fabric as it progresses along its intended path, for example, by fitting into peripheral grooves at the end of rolls. It is submitted that the wear and crack resistant strips described in MacBean and Fleisher are not guides and cannot act as guides. Accordingly, contrary to the Examiner’s suggestion, no additional structure of the “guide” is necessary to distinguish this element from those features relied upon from the cited references. Therefore neither MacBean nor Fleisher teach each and every element of independent claim 1. Claim 1 is

therefore allowable. Claims 2-13 and 16-17 depend from independent claim 1 and are allowable therewith. Accordingly, withdrawal of these rejections is requested.

B. OBVIOUSNESS

To establish prima facie obviousness all claim limitations must be taught or suggested by the prior art. *See In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974)

3. Reiley fails to teach or suggest each and every element of Independent claim 1 for at least the following reasons:

The Examiner incorrectly alleges that Reiley teaches the guide being “molded into the interstices of the fabric.” Complete analysis of the reference and particularly the portion cited by the Examiner reveals that the this portion of Reiley refers to a fabric backing 32 which is applied to the base web 31 during molding. This fabric backing is not the fabric of the conveyor belt 16, but an additional fabric used in assembly of the belt. (Reiley, col 3, lines 27-43) The base web 31, having the fabric backing 32 is then adhered to the belt 18 using a glue or adhesive and not through encapsulation. (Reiley, col. 5, lines 3-8). Nor doe the fabric backing 32 relied upon by the Examiner have a wear side as recited in claim 1. Thus contrary to the Examiner’s suggestion there is no teaching or suggestion of the fabric recited in claim 1 of the instant application in Reiley. Claim 1 patentably distinguishes over Reiley and is therefore allowable. Claims 2-21, which depend from claim 1 are similarly allowable.

4. The combination of MacBean, or Fleisher in view of Tate fails to teach or suggest each and every element of claims 14, 14, and 18-21, for at least the following reasons:


Finally, the Examiner has rejected claims 14, 15, and 18-21 as unpatentable over either U.S. Patent Nos. 3,523,867 to MacBean or 5,422,166 to Fleischer in view of U.S. Patent No. 5,558,926 to Tate. However, Tate fails to address the shortcomings of MacBean and Fleischer discussed above with respect to claim 1. Accordingly, it is submitted that for the reasons discussed above claims 14, 15, and 18-21 patentably distinguish over the combination suggested by the Examiner and are allowable.

CONCLUSION

In view of the foregoing amendments and remarks, it is believed that all of the claims in this application are patentable over the prior art and early passage to issue of the application is requested.

Respectfully submitted,
FROMMER LAWRENCE & HAUG LLP

By:

A handwritten signature in black ink, appearing to read "Ronald R. Santucci", written over a horizontal line.

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